

**Nursing and Midwifery Council
Fitness to Practise Committee**

**Substantive Order Review Hearing
Wednesday 3 April 2024**

Virtual Hearing

Name of Registrant: Georgina Ruth Parry

NMC PIN: 91Y0616E

Part(s) of the register: Registered Nurse - Adult Nursing 03 July 1994

Relevant Location: Cornwall

Type of case: Misconduct

Panel members: Elliott Kenton (Chair, Lay member)
Sharon Aldridge-Bent (Registrant member)
Clare Taggart (Lay member)

Legal Assessor: Melissa Harrison

Hearings Coordinator: Rebecka Selva

Nursing and Midwifery Council: Represented by Rosie Welsh, Case Presenter

Mrs Parry: Not present and not represented

Order being reviewed: Conditions of practice order (12 months)

Fitness to practise: Impaired

Outcome: **Conditions of practice order (12 months) to come into effect on 17 May 2024 in accordance with Article 30 (1)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Parry was not in attendance and that the Notice of Hearing had been sent to Mrs Parry's registered email address by secure email on 5 March 2024.

Further, the panel noted that the Notice of Hearing was also sent to Mrs Parry's representative, Ms Freeman, at the Royal College of Nursing (RCN) on 5 March 2024.

Ms Welsh, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Parry's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In light of all of the information available, the panel was satisfied that Mrs Parry has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mrs Parry

The panel next considered whether it should proceed in the absence of Mrs Parry. The panel had regard to Rule 21 and heard the submissions of Ms Welsh who invited the panel to continue in the absence of Mrs Parry. She submitted that Mrs Parry had voluntarily absented herself.

Ms Welsh referred the panel to the letter from Ms Freeman on behalf of Mrs Parry dated 2 April 2024:

‘Our member will not be attending the hearing, nor will they be represented. No disrespect is intended by their non-attendance. Our member has received the notice of hearing and is happy for the hearing to proceed in their absence. They are keen to engage with the proceedings.’

The panel accepted the advice of the legal assessor.

The panel decided to proceed in the absence of Mrs Parry. In reaching this decision, the panel considered the submissions of Ms Welsh, the representations made on Mrs Parry’s behalf, and the advice of the legal assessor. It had particular regard to relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mrs Parry;
- Mrs Parry has informed the NMC, through her representative, that she has received the Notice of Hearing and confirmed she is content for the hearing to proceed in her absence;
- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- There is a strong public interest in the expeditious review of the case.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mrs Parry.

Decision and reasons on review of the substantive order

The panel decided to extend the current conditions of practice order.

This order will come into effect at the end of 17 May 2024 in accordance with Article 30(1) of the ‘Nursing and Midwifery Order 2001’ (the Order).

This is the second review of a substantive conditions of practice order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 14 April 2022. This was reviewed on 6 April 2023 where the panel decided to confirm the substantive conditions of practice order for another 12 months.

The current order is due to expire at the end of 17 May 2024.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charge found proved which resulted in the imposition of the substantive order was as follows:

‘That you, a registered nurse, while employed as a Deputy Manager:

- 1. On one or more occasions between approximately May 2020 and 21 August 2020 slept on duty.*

...

And, by the reason of the above, your fitness to practise is impaired by reason of your misconduct.’

The first reviewing panel determined the following with regard to impairment:

‘The panel considered whether your fitness to practise remains impaired.

The panel noted that the original panel found that Mrs Parry had developing insight. At this hearing the panel took into account that at the outset, you accepted that your fitness to practise remains impaired. It heard that since the substantive hearing, you have been working as a carer.

In its consideration of whether you have taken steps to strengthen your practice, the panel took into account your response bundle which included your reflective piece dated 6 April 2023, the testimonial from your employer dated 5 April 2023 and your training certificates.

The original panel determined that you were liable to repeat matters of the kind found proved. Today’s panel concluded that as you have not been working as a registered nurse, you have not had the opportunity to demonstrate safe practice and compliance with the conditions of practice order. It therefore determined that

you are liable to repeat matters of the kind found proved. The panel therefore decided that a finding of continuing impairment remains necessary on the grounds of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that your fitness to practise remains impaired.'

The first reviewing panel determined the following with regard to sanction:

'The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

The panel then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where 'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.' The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether imposing a further conditions of practice order on your registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel accepted that you have been complying with some substantive conditions of practice, such as the conditions regarding disclosure to your employer. It took into account that you have not yet been able to work as a registered nurse and that therefore you have not yet been able to demonstrate complete compliance with the conditions of practice. It also took into account your reflective piece which the panel found thorough, demonstrating positive progress, and that you have continued to engage with the NMC and the hearings process.

The panel was therefore of the view that a further conditions of practice order is sufficient and will continue to protect patients and the wider public interest whilst giving you the opportunity to keep strengthening your practice and assisting you in your return to nursing.

In light of the above, the panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of your case.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 12 months, which will come into effect on the expiry of the current order, namely at the end of 17 May 2023. It decided to impose a further period of the existing conditions of practice, which it considered are appropriate and proportionate:

'For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.

- 1. You must limit your nursing practice to a single substantive employer (which should not be an agency).*

2. *You must not be the registered nurse in charge of any shift.*
3. *You must ensure that you are supervised any time you are working. Your supervision must consist of working at all times on the same shift as, but not always directly observed by, a registered nurse.*
4. *You must provide quarterly reports to the NMC from your line manager or supervisor setting out the standard of your conduct and your clinical performance with particular regard to sleeping on duty.*
5. *You must keep the NMC informed about anywhere you are working by:*
 - a) *Telling your case officer within seven days of accepting or leaving any employment.*
 - b) *Giving your case officer your employer's contact details.*
6. *You must keep the NMC informed about anywhere you are studying by:*
 - a) *Telling your case officer within seven days of accepting any course of study.*
 - b) *Giving your case officer the name and contact details of the organisation offering that course of study.*
7. *You must immediately give a copy of these conditions to:*
 - a) *Any organisation or person you work for.*
 - b) *Any employers you apply to for work (at the time of application).*
 - c) *Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*
 - d) *Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity.*
8. *You must tell your NMC case officer, within seven days of your becoming aware of:*
 - a) *Any clinical incident you are involved in.*

- b) *Any investigation started against you.*
- c) *Any disciplinary proceedings taken against you.*

9. *You must allow your NMC case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:*

- a) *Any current or future employer.*
- b) *Any educational establishment.*
- c) *Any other person(s) involved in your retraining and/or supervision required by these conditions*

(...)

Any future panel reviewing this case would be assisted by:

- *Your attendance at the review hearing and your continued engagement with the NMC.*
- *Testimonials from employers and colleagues as to your safe and effective practice as a nurse.'*

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Parry's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel had regard to all of the documentation before it, including the NMC bundle. It took into account of the submissions made by Ms Welsh on behalf of the NMC.

Ms Welsh provided the panel with a background to Mrs Parry's case; she referred to the findings of the substantive hearing and the first reviewing panel.

Ms Welsh informed the panel that before it today are written representations on behalf of Mrs Parry, a reflective piece, a testimonial from Mrs Parry's current employer and mandatory training completed by Mrs Parry in 2023. She informed the panel that Mrs Parry has not been working as a registered nurse but as a senior carer. Ms Welsh informed the panel that Mrs Parry intends to return to the nursing profession in the next few months.

Ms Welsh submitted that there is no evidence of compliance with the current conditions of practice order as Mrs Parry has not been working as a registered nurse.

Ms Welsh drew the panel's attention to Mrs Parry's reflective statement and submitted that Mrs Parry's insight is limited at this stage as she has not been working in a registered nursing role.

Ms Welsh outlined for the panel that Mrs Parry has undertaken mandatory training, however, the nature of the training is not necessarily specific to the misconduct concerned.

Ms Welsh informed the panel that as of today, there is no evidence of any complaints regarding Mrs Parry's employment.

Ms Welsh submitted that public protection is engaged as there remains a risk of repetition and potential risk of harm to colleagues and patients. Ms Welsh submitted that Mrs Parry has not been able to engage with the conditions and therefore she is unable to demonstrate safe practice.

Ms Welsh submitted that a finding of impairment is also in the public interest given the nature and seriousness of the case. She submitted that a member of the public would expect a sanction to remain in place until a panel could be satisfied of Mrs Parry's fitness to practise.

In light of this, Ms Welsh invited the panel to find that Mrs Parry's practise remains impaired. She submitted that Mrs Parry has demonstrated a willingness to address the concerns and engage with the proceedings, as such, she submitted that to extend the

current conditions of practice order by 12 months would be workable, measurable and proportionate to enable Mrs Parry to address the identified concerns.

The panel also had regard to Mrs Parry's written representations from Ms Freeman:

'To provide the panel with an update as to Ms Parry's current circumstances, we confirm that she is not currently working as a registered nurse.

Since the substantive hearing in April 2022 and the review hearing in March 2023, Ms Parry has continued to work via Big Ant Agency as a senior carer. Ms Parry reports that work is going well, with no issues arising.

The panel will note the positive comments contained within the enclosed testimonial from Big Ant.

With regards to Ms Parry's future plans, we confirm that she is keen to return to nursing practice. She has explored various nursing roles, but due to her personal circumstances and the restrictions regarding agency work, she has not been able to secure a nursing role as yet.

However, one of the placements where Ms Parry has been working as a senior carer have a potential opportunity for a nurse to join the team and Ms Parry is exploring this further to see whether it would be suitable for both her and the employer. As with any prospective employer, Ms Parry ensures that they are aware of the NMC matter and the COPO.

The panel will note Ms Parry's enclosed reflection, in which she confirms her current position and future intentions, she demonstrates her continued insight, and her dedication to the nursing profession.

In light of Ms Parry's circumstances, in that she is not currently working as a nurse and has not had opportunity to discharge the conditions of practice, and therefore cannot provide the reviewing panel with evidence of her current fitness to practice, Ms Parry readily concedes that her current fitness to practise remains impaired.

We respectfully request that Ms Parry's conditions of practice be continued for a period of 12 months. This period of time will allow Ms Parry further opportunity to secure a nursing role with an employer who is able to support her with the conditions of practice.

We submit that it would be wholly disproportionate for Ms Parry's current conditions of practice order to be replaced with a harsher sanction at this stage. Ms Parry's passion for nursing has remained throughout these proceedings and she remains keen to return to the career that she loves.

The panel are respectfully reminded that the purpose of a sanction is not to be punitive. Ms Parry has engaged with her regulator throughout the course of this matter and wishes to continue to do so. We trust that this will be taken into consideration by the panel.'

The panel heard and accepted the advice of the legal assessor.

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether Mrs Parry's fitness to practise remains impaired.

The panel had regard to NMC guidance (*references REV-3 and 3a*). The panel was of the view that at present, Mrs Parry cannot practice safely and a restriction on her practice is necessary to protect the public.

The panel noted that the last reviewing panel found that Mrs Parry had developing insight. At this hearing the panel still felt that Mrs Parry's insights were developing but not fully formed. In its consideration of whether Mrs Parry has taken steps to strengthen her practice, the panel took into account the mandatory training Mrs Parry has undertaken and her reflective piece received by the NMC on 2 April 2024. The panel considered that it had limited information before it to suggest that Mrs Parry has addressed the initial concerns,

which compromised public safety, and/or strengthened her practice. Therefore, it was of the view that Mrs Parry's behaviour could be repeated. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required as no reasonably informed member of the public would be satisfied that Mrs Parry can currently practice unrestricted given that the concerns about her practice remain largely unaddressed.

For these reasons, the panel finds that Mrs Parry's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Parry's fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mrs Parry's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mrs Parry's misconduct was not at the lower end of the spectrum and that a caution order would be

inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether imposing a further conditions of practice order on Mrs Parry's registration would still be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the identified concerns. The panel took into account that Mrs Parry has not yet been employed as a registered nurse and therefore she has not yet been able to demonstrate compliance with the conditions of practice. It also took into account Mrs Parry's reflective piece and that she has continued to engage with the NMC.

The panel was therefore of the view that a further conditions of practice order is sufficient and will continue to protect patients and the wider public interest whilst giving Mrs Parry the opportunity to strengthen her practice and assist in her return to nursing.

In light of the above, the panel was of the view that to impose a suspension order or a striking-off order would be disproportionate and would not be a reasonable response in the circumstances of Mrs Parry's case.

Accordingly, the panel determined, pursuant to Article 30(1)(c) to make a conditions of practice order for a period of 12 months, which will come into effect on the expiry of the current order, namely at the end of 17 May 2024. It decided to extend a further period of the existing conditions of practice, which it considered appropriate and proportionate to the identified risks:

'For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role.

Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.

1. *You must limit your nursing practice to a single substantive employer (which should not be an agency).*

2. *You must not be the registered nurse in charge of any shift.*
3. *You must ensure that you are supervised any time you are working. Your supervision must consist of working at all times on the same shift as, but not always directly observed by, a registered nurse.*
4. *You must provide quarterly reports to the NMC from your line manager or supervisor setting out the standard of your conduct and your clinical performance with particular regard to sleeping on duty.*
5. *You must keep the NMC informed about anywhere you are working by:*
 - a) *Telling your case officer within seven days of accepting or leaving any employment.*
 - b) *Giving your case officer your employer's contact details.*
6. *You must keep the NMC informed about anywhere you are studying by:*
 - a) *Telling your case officer within seven days of accepting any course of study.*
 - b) *Giving your case officer the name and contact details of the organisation offering that course of study.*
7. *You must immediately give a copy of these conditions to:*
 - a) *Any organisation or person you work for.*
 - b) *Any employers you apply to for work (at the time of application).*
 - c) *Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.*
 - d) *Any current or prospective patients or clients you intend to see or care for on a private basis when you are working in a self-employed capacity.*
8. *You must tell your NMC case officer, within seven days of your becoming aware of:*
 - a) *Any clinical incident you are involved in.*
 - b) *Any investigation started against you.*
 - c) *Any disciplinary proceedings taken against you.*
9. *You must allow your NMC case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:*

- a) *Any current or future employer.*
- b) *Any educational establishment.*
- c) *Any other person(s) involved in your retraining and/or supervision required by these conditions.*

The period of this order is for 12 months.

This conditions of practice order will take effect upon the expiry of the current conditions of practice order, namely the end of 17 May 2024 in accordance with Article 30(1).

Before the end of the period of the order, a panel will hold a review hearing to see whether Mrs Parry has complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by:

- Mrs Parry's attendance at the next review hearing and her continued engagement with the NMC.
- Further information in relation to the steps taken to gain employment as a registered nurse.
- Testimonials from a colleague or supervisor in a clinical setting.
- Further information on the mandatory training she has taken, noting that the courses are due to expire in 2024.
- Further information on additional training undertaken in relation to professional standards and evidence of successful completion.

This will be confirmed to Mrs Parry in writing.

That concludes this determination.